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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. |
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09/162, 444 09/29/98 TANAKA

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*N/C*  
EXAMINER

NGUYEN, H

ART UNIT

PAPER NUMBER

*2784*  
DATE MAILED:

04/14/99

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Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

|                              |                 |                |
|------------------------------|-----------------|----------------|
| <b>Office Action Summary</b> | Application No. | Applicant(s)   |
|                              | 09/162,444      | TANAKA ET AL   |
|                              | Examiner        | Group Art Unit |
|                              | HOA NGUYEN      | 2784           |

Responsive to communication(s) filed on Sep 29, 1998

This action is **FINAL**.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire THREE month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

#### Disposition of Claims

Claim(s) 18-29 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

Claim(s) 21 is/are allowed.

Claim(s) 18-20 and 22-29 is/are rejected.

Claim(s) \_\_\_\_\_ is/are objected to.

Claims \_\_\_\_\_ are subject to restriction or election requirement.

#### Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

The proposed drawing correction, filed on Sep 29, 1998 is  approved  disapproved.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. § 119

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All  Some\*  None of the CERTIFIED copies of the priority documents have been

received.

received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_.

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

#### Attachment(s)

Notice of References Cited, PTO-892

Information Disclosure Statement(s), PTO-1449, Paper No(s). 2 & 5

Interview Summary, PTO-413

Notice of Draftsperson's Patent Drawing Review, PTO-948

Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

## DETAILED ACTION

1. This application is a continuation of application serial number 08/895,886 which is a continuation of application serial number 08/534,841 (now US/5,889,938) which is a continuation of application serial 07/859,850 (now US/5,495,572).
2. Claims 18-29 are pending for examination.
3. References cited by applicant on PTO-1449 (paper no. 2) and PTO-1449 (paper no.4) have been considered and are hereby made of record. Copies with examiner's initial are attached to this office action.
4. The drawings with corrections including figs 2, 4-9 filed on 9/29/98 has been entered into the record. Corrections to figs. 2, 4-8 have been approved by the examiner. Corrections to fig. 9 have not been approved by the examiner because correction made to box 192 fails to match with description in the specification. I.e., the sign "<" as proposed should be -- > -- as is in specification.
5. The preliminary amendment filed on 9/29/98 has been partially entered. The entering starting from "IN THE CLAIMS:", pages 12-20. The amendments made to the specification has not been entered because the lengthy of these amendments. Applicant can submit a substitute specification instead of amending with lengthy.
6. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required:
  - in claim 18, the term "a degree of preference to be given to the processing of reconstructing data".

- in claim 19, "the controller determines the degrees of preference based on a predetermined limit time".
- in claim 20, "controller performs the processing of reconstructing data according to the degree of preference".
- in claim 22, "the controller controls a ratio of an amount of the processing of reconstructing data to an amount of the processing of data read/write requests".
- in claim 24, "the controller control a ratio of an amount of time for processing of reconstructing data to an amount of time for the processing of data read/write requests".
- in claim 25, "controller controls an amount of time for processing of reconstructing data".
- in claim 26, "controller controls an amount of the processing of reconstructing data".
- in claim 27, "controller determines an amount of performing the processing of reconstructing data instead of the processing of data read/write requests such that the processing of reconstructing data is completed within a fixed time".
- in claim 28, "controller performs the processing of reconstructing data in preference to the processing of data read/write requests such that the processing of reconstructing data is completed within a fixed time".
- in claim 29, "controller performs the processing of reconstructing data instead of the processing of data read/write requests such that the processing of reconstructing data is completed within a fixed time".

7. The amendment filed 9/29/98 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the

original disclosure is as follows:

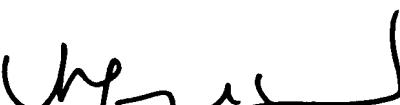
- as per claims 18-20, "the degree of preference to be given to the .....data".
- as per claim 22-23, "controller controls a ratio of an amount of the processing of reconstructing data to an amount of the processing of data read/write requests".
- as per claim 24, "controller controls.....read/write requests".
- as per claim 25, "controller controls .....reconstructing data".
- as per claim 26, "controller controls an amount of the processing of reconstructing data ".
- as per claim 27, "controller determines an amount of performing the processing of reconstructing data instead of the precessing of data read/write requests".
- as per claim 28, "wherein" clause.
- as per claim 29, "wherein" clause.

Applicant is required to cancel the new matter in the reply to this Office action.

8. Claims 18-20, 22-29 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Please note comments and citations with respect to paragraphs 6 & 7 above.

9. Claim 21 is allowed.

10. Any inquiry concerning this communication should be directed to Hoa Nguyen at telephone number (703) 305-9687.



HOA T. NGUYEN  
PRIMARY EXAMINER